

111TH CONGRESS  
1ST SESSION

# S. 1624

To amend title 11 of the United States Code, to provide protection for medical debt homeowners, to restore bankruptcy protections for individuals experiencing economic distress as caregivers to ill, injured, or disabled family members, and to exempt from means testing debtors whose financial problems were caused by serious medical problems, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

AUGUST 6, 2009

Mr. WHITEHOUSE introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend title 11 of the United States Code, to provide protection for medical debt homeowners, to restore bankruptcy protections for individuals experiencing economic distress as caregivers to ill, injured, or disabled family members, and to exempt from means testing debtors whose financial problems were caused by serious medical problems, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Medical Bankruptcy  
3 Fairness Act of 2009”.

4 **SEC. 2. DEFINITIONS.**

5 (a) IN GENERAL.—Section 101 of title 11, the United  
6 States Code, is amended—

7 (1) by inserting after paragraph (39A) the fol-  
8 lowing:

9 “(39B) The term ‘medical debt’ means any  
10 debt incurred directly or indirectly as a result of the  
11 diagnosis, cure, mitigation, treatment, or prevention  
12 of injury, deformity, or disease, or for the purpose  
13 of affecting any structure or function of the body.

14 “(39C) The term ‘medically distressed debtor’  
15 means a debtor who, in any consecutive 12-month  
16 period during the 3 years before the date of the fil-  
17 ing of the petition—

18 “(A) incurred or paid medical debts for the  
19 debtor or a dependent of the debtor, or a non-  
20 dependent member of the immediate family of  
21 the debtor (including any parent, grandparent,  
22 sibling, child, grandchild, or spouse of the debt-  
23 or), that were not paid by any third party payor  
24 and were in excess of the lesser of—

25 “(i) 10 percent of the debtor’s ad-  
26 justed gross income (as such term is de-

1           fined under section 62 of the Internal Rev-  
2           enue Code of 1986); or

3           “(ii) \$10,000;

4           “(B) was a member of a household in  
5           which 1 or more members (including the debt-  
6           or) lost all or substantially all of the member’s  
7           domestic support obligation income, taking into  
8           consideration any disability insurance pay-  
9           ments, for 4 or more weeks, due to a medical  
10          problem of a person obligated to pay such do-  
11          mestic support; or

12          “(C) experienced a downgrade in employ-  
13          ment status that correlates to a reduction in  
14          wages or work hours or results in unemploy-  
15          ment, to care for an ill, injured, or disabled de-  
16          pendent of the debtor, or an ill, injured, or dis-  
17          abled nondependent member of the immediate  
18          family of the debtor (including any parent,  
19          grandparent, sibling, child, grandchild, or  
20          spouse of the debtor), for not less than 30  
21          days.”.

22          (b)       CONFORMING        AMENDMENTS.—Sections  
23   104(b)(1) and 104(b)(2) of title 11, the United States  
24   Code, are each amended by inserting “101(39C)(A)(ii),”  
25   after “101(19)(A)”.

1 **SEC. 3. EXEMPTIONS.**

2 (a) EXEMPT PROPERTY.—Section 522 of title 11, the  
3 United States Code, is amended by adding at the end the  
4 following:

5 “(r) For a debtor who is a medically distressed debt-  
6 or, if the debtor elects to exempt property—

7 “(1) listed in subsection (b)(2), then in lieu of  
8 the exemption provided under subsection (d)(1), the  
9 debtor may elect to exempt the debtor’s aggregate  
10 interest, not to exceed \$250,000 in value, in real  
11 property or personal property that the debtor or a  
12 dependent of the debtor uses as a residence, in a co-  
13 operative that owns property that the debtor or a de-  
14 pendent of the debtor uses as a residence, or in a  
15 burial plot for the debtor or a dependent of the debt-  
16 or; or

17 “(2) listed in subsection (b)(3), then if the ex-  
18 emption provided under applicable law specifically  
19 for property of the kind described in paragraph (1)  
20 is for less than \$250,000 in value, the debtor may  
21 elect in lieu of such exemption to exempt the debt-  
22 or’s aggregate interest, not to exceed \$250,000 in  
23 value, in any such real or personal property, cooper-  
24 ative, or burial plot.”.

25 (b) CONFORMING AMENDMENTS.—Sections  
26 104(b)(1) and 104(b)(2) of title 11, the United States

1 Code, are each amended by inserting “522(r),” after  
 2 “522(q),”.

3 **SEC. 4. DISMISSAL OF A CASE OR CONVERSION TO A CASE**  
 4 **UNDER CHAPTER 11 OR 13.**

5 Section 707(b) of title 11, the United States Code,  
 6 is amended by adding at the end the following:

7 “(8) No judge, United States trustee (or bank-  
 8 ruptcy administrator, if any), trustee, or other party  
 9 in interest may file a motion under paragraph (2) if  
 10 the debtor is a medically distressed debtor.”.

11 **SEC. 5. CREDIT COUNSELING.**

12 Section 109(h)(4) of title 11 United States Code, is  
 13 amended by inserting “a medically distressed debtor or”  
 14 after “with respect to”.

15 **SEC. 6. NONDISCHARGEABILITY OF CERTAIN ATTORNEYS**  
 16 **FEES.**

17 Section 523(a) of title 11, United States Code, is  
 18 amended—

19 (1) in paragraph (18), by striking “or” at the  
 20 end;

21 (2) in paragraph (19), by striking the period at  
 22 the end and inserting “; or”; and

23 (3) by inserting after paragraph (19) the fol-  
 24 lowing:

1 “(20) incurred by a debtor relating to attorneys  
2 fees generated as result of the debtor’s filing of a  
3 petition under chapter 7.”.

4 **SEC. 7. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

5 (a) EFFECTIVE DATE.—Except as provided in sub-  
6 section (b), this Act and the amendments made by this  
7 Act shall take effect on the date of the enactment of this  
8 Act.

9 (b) APPLICATION OF AMENDMENTS.—The amend-  
10 ments made by this Act shall apply only with respect to  
11 cases commenced under title 11 of the United States Code  
12 on or after the date of the enactment of this Act.

13 **SEC. 8. ATTESTATION BY DEBTOR.**

14 Any debtor who seeks relief as a medically distressed  
15 debtor in accordance with the amendments made by this  
16 Act shall attest in writing and under penalty of perjury  
17 that the medical expenses of the debtor were genuine, and  
18 were not specifically incurred to bring the debtor within  
19 the coverage of the medical bankruptcy provisions, as pro-  
20 vided in this Act and the amendments made by this Act.

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